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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	YOUNG, Alan, et al.
Application No.	09/728,471
Filed:	November 30, 2000
For:	**SYSTEM AND METHOD FOR PERFORMING AN ELECTRONIC TRANSACTION USING A TRANSACTION PROXY WITH AN ELECTRONIC WALLET**
Examiner:	Jasmin, Lynda C.
Group Art Unit:	3627

APPEAL BRIEF

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Commissioner of Patents
P.O. Box 1450
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Sir:

This is an Appeal Brief under 37 C.F.R. § 41.37 in connection with the decision of the Examiner mailed on November 30, 2005. A Notice of Appeal with a three-month extension of time was filed on May 30, 2006 setting the time for filing an Appeal Brief to expire on May 30, 2006. A four-month extension of time is being submitted herewith to extend the period for filing the Appeal Brief up to and including November 30, 2006.

This Appeal Brief fully complies with all provisions of 37 CFR 41.37(c) and each of the topics required by § 41.37 is presented herewith and is labeled appropriately. It is not believed that any additional fees are due, but if so, please charge any deficiency to Deposit Account No. 50-1458.

(1) Real Party In Interest

The real party in interest is Citibank, N.A.

(2) Related Appeals And Interferences

There are no other appeals or interferences related to this case.

(3) Status of Claims

Claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 are pending and all have been rejected.

Claims 2, 3, 8, 11, 13, 17-22, 24, 26-45, 47-61, and 70 have been canceled.

No claims have been allowed.

No claims have been withdrawn.

Claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 are hereby appealed.

(4) Status of Amendments

There are no amendments after final rejection.

(5) Summary of Claimed Subject Matter

Independent claim 1 proposes a method of operating a computer system for data management of an electronic transaction involving, for example, receiving in a transaction portal server via a wireless communication switching facility coupled to the transaction portal server over a global network a unique product and merchant identifying code entered by a customer on a wireless communication device coupled to the wireless communication switching facility and identifying a product and a merchant associated with the product and merchant identifying code by the transaction portal server from a database of the transaction portal server storing product and merchant identifying code data for a plurality of merchants (See, e.g., Specification, p. 9, lines 1-18; p. 13, line 26-p. 15, line 22; and Figs. 1-3); retrieving product information data by the transaction portal server from a product database of a merchant server coupled to the transaction portal server over the global network and displaying the product information data by the transaction portal server on a display screen of the wireless communication device for the customer (See, e.g., Specification, p. 15, line 23-

p. 16, line 10; and Figs. 1-3); receiving by the transaction portal server the customer's indication to purchase the product entered by the customer on the wireless communication device and retrieving default payment method information for the customer by the transaction portal server from an electronic wallet server (See, e.g., Specification, p. 16, line 10-p. 17, line 7; and Figs. 1-3); displaying the default payment information by the transaction portal server on the display screen of the wireless communication device for the customer and receiving payment option data comprising information describing a desired means of payment for the product by the transaction portal server entered by the customer on the wireless communications device (See, e.g., Specification, p. 17, line 7-p. 18, line 1; and Figs. 1-3); transmitting payment authorization data to a payment processor by the transaction portal server and receiving a payment authorization by the transaction portal server from the payment processor (See, e.g., Specification, p. 18, lines 1-10; and Figs. 1-3); transmitting order information to a check-out application of the merchant server by the transaction portal server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server by the transaction portal server (See, e.g., Specification, p. 18, lines 11-24; and Figs. 1-3); and receiving by the transaction portal server order confirmation information from the merchant server and displaying the order confirmation information by the transaction portal server on the display screen of the wireless communication device for the customer (See, e.g., Specification, p. 18, lines 25-29; and Figs. 1-3).

Independent claim 46 proposes a computer system for data management of an electronic transaction involving, for example, a transaction portal server pre-programmed for receiving via a wireless communication switching facility coupled to the transaction portal server over a global network a unique product and merchant identifying code entered by a customer on a wireless communications device coupled to the wireless communication switching facility and for identifying a product and a merchant associated with the product and merchant identifying code from a database of the transaction portal server storing product and merchant identifying code data for a plurality of merchants (See, e.g., Specification, p. 9, lines 1-18; p. 13, line 26-p. 15, line 22; and Figs. 1-3); wherein the

transaction portal server is further pre-programmed for retrieving product information data from a product database of a merchant server coupled to the transaction portal server over the global network and for displaying the product information on a display screen of the wireless communications device for the customer (See, e.g., Specification, p. 15, line 23-p. 16, line 10; and Figs. 1-3); wherein the transaction portal server is further pre-programmed for receiving the customer's indication to purchase the product entered by the customer on the wireless communication device and for retrieving default payment method information for the customer from an electronic wallet server (See, e.g., Specification, p. 16, line 10-p. 17, line 7; and Figs. 1-3); wherein the transaction portal server is further pre-programmed displaying the default payment information on the display screen of the wireless communication device for the customer and for receiving payment option data comprising information describing a desired means of payment for the product entered by the customer on the wireless communications device (See, e.g., Specification, p. 17, line 7-p. 18, line 1; and Figs. 1-3); wherein the transaction portal server is further pre-programmed for transmitting payment authorization to a payment processor and for receiving a payment authorization from the payment processor (See, e.g., Specification, p. 18, lines 1-10; and Figs. 1-3); wherein the transaction portal server is further pre-programmed for transmitting order information to a check-out application of the merchant server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server (See, e.g., Specification, p. 18, lines 11-24; and Figs. 1-3); and wherein the transaction portal server is further pre-programmed for receiving order confirmation information from the merchant server and displaying the order confirmation information on the display screen of the wireless communication device for the customer (See, e.g., Specification, p. 18, lines 25-29; and Figs. 1-3).

(6) Grounds of Rejection to be Reviewed on Appeal

Claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Wharton (U.S. Appln No. 2005/0027610) in view of Arunachalam (U.S. Appln No. 2003/006922).

(7) Argument

The Rejection of Claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 under 35 U.S.C. 103(a) as being unpatentable over Wharton (U.S. Appln No. 2005/0027610) in view of Arunachalam (U.S. Appln No. 2003/006922) is Improper

With regard to independent claims 1and 46, the Examiner considers that Wharton discloses each and every element of each of claims 1 and 46 except:

- transmitting order information to a check-out application of the merchant server by the transaction portal server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server by the transaction portal server, as recited in claims 1 and/or 46, which the Examiner considers to be taught by Arunachalam, and
- receiving by the transaction portal server order confirmation information from the merchant server and displaying the order confirmation information by the transaction portal server on the display screen of the wireless communication device for the customer, as recited in claims 1 and/or 46, which the Examiner also considers to be taught by Arunachalam.

On the contrary, there is no motivation to modify Wharton in view of Arunachalam, and the proposed modification lacks one or more limitations recited in each of independent claims 1and/or 46 in at least the following respects:

- Wharton fails to teach or suggest a transaction portal server that receives a unique product and merchant identifying code entered by the customer on a wireless communication device, that identifies a product and merchant associated with the code from a database of the transaction portal server, that retrieves product information data from a product database of a merchant server, and that displays the product information data on a display screen of the wireless communication device for the customer, as recited in claims 1 and/or 46. On the contrary, the customer in Wharton communicates directly with the merchant's server (rather than the

transaction processor) by clicking on a hyperlink selection of an electronic commerce portal and interacting directly with the merchant's server to conduct a local search and retrieval operation for the product on the merchant's local product catalog (See, e.g., Wharton, paras. 0036-0038).

- Wharton also fails to teach or suggest a transaction portal server that receives the customer's indication to purchase the product entered on the wireless communication device, that retrieves default payment method information for the customer from an electronic wallet server, and that displays the default payment information on the display screen of the wireless communication device for the customer, as also recited in claims 1 and/or 46. On the contrary, the customer in Wharton saves his/her product selection to a local shopping basket on the merchant's server (rather than the transaction processor), which sends a "transaction packet" to the transaction processor and navigates the customer back to the electronic commerce portal, which then notifies the transaction processor, which transaction processor in turn prompts the electronic commerce portal for customer-specific payment information, such as credit card number and expiration date (See, e.g., Wharton, paras. 0038-0041).
- As admitted by the Examiner, Wharton likewise fails to teach or suggest a transaction portal server that transmits order information to a check-out application of the merchant server and causes an electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server, as additionally recited in claims 1 and/or 46. On the contrary, in Wharton, the transaction processor itself via its backend processing (rather than via the merchant's server) processes the customer's checkout, including verifying the merchant and customer, accounting and billing, and order fulfillment (See, e.g., Wharton, paras. 0044-0053).

Arunachalam fails to cure the deficiencies of Wharton for at least the following reasons:

- Arunachalam fails to teach or suggest a transaction portal server that receives a unique product and merchant identifying code entered by the customer on a wireless communication device, that identifies a product and merchant associated with the code from a database of the transaction portal server, that retrieves product information data from a product database of a merchant server, and that displays the product information data on a display screen of the wireless communication device for the customer, as recited in claims 1 and/or 46. On the contrary, the customer in Arunachalam uses the customer's access device to communicate directly with the merchant's node (rather than the transaction processor) by accessing the hub which connects the customer to the service provider's node in response to the customer's request (See, e.g., Arunachalam, paras. 0051, 0052, 0096, and 0097).
- Arunachalam also fails to teach or suggest a transaction portal server that receives the customer's indication to purchase the product entered on the wireless communication device, that retrieves default payment method information for the customer from an electronic wallet server, and that displays the default payment information on the display screen of the wireless communication device for the customer, as also recited in claims 1 and/or 46. On the contrary, the customer in Arunachalam uses the customer's access device to communicate a request to buy a product to the merchant's node (rather than the transaction processor), which connects to a database to obtain and update inventory information and then notifies the hub that the purchase is complete, whereupon the hub connects the customer to a credit card processor node based on a credit card account furnished by the customer over the customer's access device (See, e.g., Arunachalam, paras. 0097-0098).
- Arunachalam likewise fails to teach or suggest a transaction portal server that transmits order information to a check-out application of the merchant server and causes an electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server, as additionally recited in claims 1 and/or 46. On the contrary, in Arunachalam, the credit card node itself (rather than via the merchant's server) processes the credit card payment based on the customer-supplied credit card account and notifies the hub when the processing is

complete, whereupon the hub connects the customer to a shipper's node, which arranges shipping according to particulars furnished by the customer over the customer's access device and notifies the hub, which notifies the customer via the customer's access device that the transaction is complete (See, e.g., Arunachalam, paras. 0044-0053).

Consequently, Wharton and/or Arunachalam, separately or in combination with one another, do not recite the required combination of limitations of amended independent claims 1 and/or 46. Because each and every element as set forth in amended independent claims 1 and/or 46 is not found, either expressly or inherently in Wharton and/or Arunachalam, the Examiner has failed to establish the required *prima facie* case of unpatentability. See Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628 (Fed. Cir. 1987); See also MPEP §2131. The Examiner has failed to establish the required *prima facie* case of unpatentability for independent claims 1 and 46 and similarly has failed to establish a *prima facie* case of unpatentability for claims 4-7, 9, 10, 12, 14-16, 23, 25, and 62-69 that depend on claim 1 and which recite further specific elements that have no reasonable correspondence with the references.

(9) Conclusion

For at least the reasons given above, the rejection of claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 is improper. Applicants respectfully request the final rejection by the Examiner be reversed and claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 be allowed.

Respectfully submitted,

Date: 11/17/06 By: _____

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(8) Claims Appendix

1. A method of operating a computer system for data management of an electronic transaction comprising:

receiving in a transaction portal server via a wireless communication switching facility coupled to the transaction portal server over a global network a unique product and merchant identifying code ~~a~~ entered by a customer on a wireless communication device coupled to the wireless communication switching facility and identifying a product and a merchant associated with the product and merchant identifying code by the transaction portal server from a database of the transaction portal server storing product and merchant identifying code data for a plurality of merchants;

retrieving product information data by the transaction portal server from a product database of a merchant server coupled to the transaction portal server over the global network and displaying the product information data by the transaction portal server on a display screen of the wireless communication device for the customer;

receiving by the transaction portal server the customer's indication to purchase the product entered by the customer on the wireless communication device and retrieving default payment method information for the customer by the transaction portal server from an electronic wallet server;

displaying the default payment information by the transaction portal server on the display screen of the wireless communication device for the customer and receiving payment option data comprising information describing a desired means of payment for the product by the transaction portal server entered by the customer on the wireless communications device;

transmitting payment authorization data to a payment processor by the transaction portal server and receiving a payment authorization by the transaction portal server from the payment processor;

transmitting order information to a check-out application of the merchant server by the transaction portal server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server by the transaction portal server; and

receiving by the transaction portal server order confirmation information from the merchant server and displaying the order confirmation information by the transaction portal server on the display screen of the wireless communication device for the customer .

4. The method of claim 1 further comprising receiving customer identification information.

5. The method of claim 4 further comprising determining an electronic wallet application on the electronic wallet server associated with the customer identification information.

6. The method of claim 5 further comprising accessing the electronic wallet application associated with the customer identification information on the electronic wallet server.

7. The method of claim 6 wherein receiving payment option data comprising information describing the desired means of payment for the product comprises accessing the electronic wallet application associated with the customer identification information on the electronic wallet server.

9. The method of claim 7 wherein the product information comprises the price of the product.

10. The method of claim 7 wherein the product information comprises at least one of the following: price of the product, description of attributes of the product, brand name of the product, and name of the product.

12. The method of claim 4 wherein receiving customer identification information comprises receiving customer identification information from the wireless communications device.

14. The method of claim 12 wherein the wireless communications device comprises a web browser.

15. The method of claim 14 wherein the wireless communications device comprises a wireless telephone.

16. The method of claim 14 wherein the wireless communications device comprises at least one of the following: a telephone, a personal computer, and a personal digital assistant.

23. The method of claim 1 wherein the transaction portal server is in communication with at least two merchant servers.

25. The method of claim 1 wherein the default payment method for the product comprises a credit card.

46. A computer system for data management of an electronic transaction comprising:

a transaction portal server pre-programmed for receiving via a wireless communication switching facility coupled to the transaction portal server over a global network a unique product and merchant identifying code entered by a customer on a wireless communications device coupled to the wireless communication switching facility and for identifying a product and a merchant associated with the product and merchant identifying code from a database of the transaction portal server storing product and merchant identifying code data for a plurality of merchants;

wherein the transaction portal server is further pre-programmed for retrieving product information data from a product database of a merchant server coupled to the transaction

portal server over the global network and for displaying the product information on a display screen of the wireless communications device for the customer;

wherein the transaction portal server is further pre-programmed for receiving the customer's indication to purchase the product entered by the customer on the wireless communication device and for retrieving default payment method information for the customer from an electronic wallet server;

wherein the transaction portal server is further pre-programmed displaying the default payment information on the display screen of the wireless communication device for the customer and for receiving payment option data comprising information describing a desired means of payment for the product entered by the customer on the wireless communications device;

wherein the transaction portal server is further pre-programmed for transmitting payment authorization to a payment processor and for receiving a payment authorization from the payment processor;

wherein the transaction portal server is further pre-programmed for transmitting order information to a check-out application of the merchant server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server; and

wherein the transaction portal server is further pre-programmed for receiving order confirmation information from the merchant server and displaying the order confirmation information on the display screen of the wireless communication device for the customer.

62. The method of claim 1 further comprising entering into a joint venture between a provider of the transaction portal server and a provider of the wireless communication switching facility.

63. The method of claim 62 further comprising providing the transaction portal server in communication with the wireless communication switching facility.

64. The method of claim 63 further comprising providing the customer access to the transaction portal server.

65. The method of claim 64 further comprising receiving by the operator of the wireless communication switching facility billing data reflecting a transaction between the merchant and the customer and providing a bill to the customer comprising the billing data.

66. The method of claim 65 wherein the bill further comprises billing for communications services.

67. The method of claim 66 wherein communications services comprises mobile telephone service.

68. The method of claim 67 wherein the provider of the wireless communication switching facility comprises a mobile telephone network operator.

69. The method of claim 68 wherein the provider of the transaction portal server comprises a bank.

(9) Evidence Appendix

There is no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131 and no other evidence entered by the examiner and relied on by appellant in the appeal.

(10) Related Proceedings Appendix

There are no other decisions rendered by a court or the Board in any other appeals or interferences related to this case.